

STATE OF WISCONSIN  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF MANAGEMENT SERVICES  
BUREAU OF FISCAL SERVICES

ACCOUNTING POLICY

TOPIC: Audit 4.1	EFFECTIVE DATE: 11/31/92
TITLE: Fiscal Sanctions for Failure to Meet Audit Requirements	REVISION DATE:
AUTHORIZED BY: Patrick Cooper, Director Office of Program Review and Audit	PAGE 1 OF 6

**BACKGROUND**

The Department of Health and Social Services provides a substantial amount of federal and state funding to a large number and variety of governmental and non-governmental entities. Audits and on-going contract monitoring are two tools which the Department uses to carry out its management oversight responsibilities. Part of the Department's audit-related responsibilities for sub-recipients include obtaining, reviewing, and resolving sub-recipient audit reports.

This bulletin provides a broadly applicable sanction policy as a mechanism to assist in ensuring timely receipt, review, and resolution of audit reports of entities doing business under contract with the Department. Some of the major elements included in the policy are:

- ! A sanction policy should be both fair to sub-grantees and constitute a reasonable response on the part of the Department in fulfilling its management responsibilities for funds provided to sub-grantees. Individual sanctions should be appropriate to the type of problem to be resolved.
- ! Sanctions should be progressive. Fiscal sanctions will be imposed after other methods to obtain needed information have failed to result in compliance within a reasonable period of time.
- ! Sanctions should be imposed as consistently as possible, even though they are determined on a case-by-case basis.

The sanction policy detailed below is consistent with pronouncements on sanctions contained in *OMB Circular A-128*, *OMB Circular A-133*, the Department of Administration's *State Single Audit Guidelines*, and *45 CFR 74, Administration of Grants* (74.114 to 74.116).

**SANCTION POLICY**

The policy goal of the Department of Health and Social Services is to fulfill its responsibility to obtain, review, and resolve audit reports in a timely fashion, and to monitor for contract compliance. Audit reports should be received in the Department by their due date, reviewed within ninety (90) days of receipt of a complete report, and resolved within six (6) months of receipt. To accomplish this, the Department will rely, in cases where it is

necessary, on a broad range of sanctions to try to ensure that audit reports are received, that materials needed for audit report review and resolution are submitted, and that contract provisions are met.

Sanctions may be initiated by the Office of Program Review and Audit (OPRA) or by any of the Department's program divisions in carrying out their management oversight responsibilities for obtaining, reviewing, and resolving audit reports.

#### **PROCEDURES**

1. Whenever an audit report is not received in the Department by its due date, or whenever additional material is needed from an audited entity in order to proceed with audit review or resolution activities, the appropriate staff of the Department will write to the entity requesting that the report, or other material, be submitted within thirty (30) days. If the requested information is submitted, the matter will be considered closed.

Note: Throughout these procedures, staff refers to those having audit review and/or audit resolution responsibilities for the entity involved either OPRA or divisional staff.

2. If the information has not been submitted by the end of the thirty (30) day period, Department staff will write a second notification letter to the audited entity indicating that this is a second notice, and requesting again that the material be submitted within thirty days, or that the entity provide a written explanation of why the material cannot be provided within the second thirty day time frame. If the requested material cannot be provided within this second thirty day period, the explanation of the delay should also specify a date by which the material will be provided.

The Department's notice shall inform the audited entity that the Department will consider imposing a fiscal sanction unless the requested information, or an acceptable explanation for not submitting it, is received.

If the requested material is submitted, the matter will be closed. If the audited organization provides an acceptable explanation of why the requested material cannot be submitted until a specified date, the matter will be considered as pending until that date, if the Department finds the date acceptable. If the Department does not find the date acceptable, it will negotiate an acceptable date with the audited entity.

If requested information has not been received by the date agreed to, the Department will proceed as outlined in item 3.

3. If the audit report, or other materials needed for the review/resolution process, have not been received by the end of this second thirty day period, and the audited entity has not provided an acceptable explanation of why the material could not be submitted within the time frame, Department staff will write to the audited entity and indicate

either that the requested material has not been received, or that no acceptable explanation for not submitting it has been provided. (In cases where the audited entity has given an explanation why the material could not be provided, and the Department has found the explanation unacceptable, the Department shall clearly state why the explanation is unacceptable.) The letter shall inform the audited organization that the Department is now in the process of considering the imposition of a fiscal sanction because of the entity's failure to comply with previous requests.

When this stage is reached, Department staff shall make a personal phone call to the appropriate management officials of the audited organization to make sure that they are aware that the Department is considering the imposition of a fiscal sanction for a failure to comply with audit requirements. (For counties, the appropriate management official would be the chairperson of the County Board or the County Executive; for tribes, the tribal chairperson; and for non-governmental entities, the President of the Board of the organization.)

4. When it becomes necessary to inform an entity that the Department is considering the imposition of a fiscal sanction, those staff with audit review and/or resolution responsibilities will research the status of the grant award and the Department's payments to determine the possible sanctions available to the Department. The types of sanction actions that are available will be influenced by a variety of factors (including how cleanly a particular sanction can be handled administratively); thus identifying an appropriate sanction will require some judgment.

The following general guidelines can be used in determining an appropriate sanction:

- ! If an entity's required expenditure reports clearly identify an administrative expense amount, one could consider a sanction that consists of not reimbursing the organization's monthly reported administrative expenses until the requested material has been supplied.
- ! If an entity's required expenditure reports do not clearly identify an administrative expense amount, one could consider a sanction that consists of not reimbursing 10% of the organization's reported allowable expenditures until the requested material has been supplied.
- ! If the imposition of a sanction is being considered in a period where the organization receives advances of funds, but the reported expenses for the period are very low, one could consider a sanction that consists in reducing the amount of monthly advances by 10% until the requested material has been supplied.
- ! Other reasonable sanctions may be considered in particular circumstances where those identified above do not appear feasible or appropriate.

Generally speaking, audit reports are due substantially after the close of a period for which funding has been provided, and requests for additional information needed to proceed with audit review and/or resolution will occur later still. In most cases where the Department is considering the imposition of a fiscal sanction, it will have to be imposed in a current period for a failure to submit an audit report or other material related to funding provided in a prior period.

**In those cases in which an entity has not provided an audit report or other information necessary for the review and resolution of audits for a period that is now closed, and the Department is not providing any funding to the entity for the current period, the Department will not provide any new funding to the entity for any program, from any source, until the requested material has been provided.**

5. Once the Department staff responsible for audit review and resolution activities have identified an appropriate sanction, they shall prepare a brief report for review and approval by the appropriate program division Administrator(s) and the Administrator of the Division of Management Services.

The report shall explain the circumstances leading to the tentative decision to impose a sanction (that is, what the organization failed to provide, what actions the Department took to obtain the information prior to considering the imposition of a sanction) and explaining the reasons for the particular sanction being recommended. Staff should also prepare a proposed sanction letter to the organization for review by the Division Administrators. The letter should describe the circumstances leading up to the decision to impose the sanction, what sanction is being imposed, when the sanction will begin, and what the organization needs to do to have it lifted.

6. Once a sanction has been determined, and a proposed sanction letter prepared, but before the letter is sent, the Department will again contact the entity in writing and indicate that the staff will be recommending the imposition of a fiscal sanction unless the audit report or other requested material, or a satisfactory explanation of why it cannot be submitted, is received within fifteen (15) days from the receipt of the letter. (The letter will be sent with a return receipt requested.)
7. If a satisfactory response is not received, upon approval by the appropriate program division Administrator(s) and the Administrator of the Division of Management Services, a joint fiscal sanction letter shall be sent to the organization. A copy of this letter shall also be sent to the Director of the Bureau of Fiscal Services so that the sanction may be implemented.

At the time that a sanction is imposed, the Bureau of Fiscal Services will issue a bulletin, pursuant to **AUDIT 4.1**, informing all manual holders that a sanction has been imposed. When a sanction has been lifted, a notice to this effect will be issued.

8. If the imposition of the initial sanction does not result in the organization providing the audit report or other requested materials, the sanction shall remain in place for a period of up to three (3) months from the effective date of the initial sanction. The Department shall, each month, inform the sanctioned organization in writing that the sanction is being continued because of the organization's failure to submit an audit report or other requested materials.

Prior to the expiration of the three month period following the imposition of an initial sanction, the Department shall inform the audited entity, in writing, that the Department will be considering further sanctions if the audit report, or other requested material, has not been provided within three months after the effective date of the initial sanction.

When a sanctioned entity has submitted the information requested by the Department, and the Department has found it to be acceptable, the sanction will be lifted; and the Director of the Bureau of Fiscal Services shall be informed that any funds withheld during the sanction period are now to be returned to the entity by the most convenient method--as determined by the Bureau of Fiscal Services.

However, if compliance with audit requirements has been too late, and the Department no longer has the withheld funds available to return, the funds previously withheld will not be returned when the sanction is lifted. If at any time during the period in which an entity is under sanction, the Department's normal contract renewal process is under way, the Department will consider not entering into a contract for the next contract period unless the entity first provides the audit report, or other requested material, for the period for which the sanction is being imposed.

9. If the audited entity has not submitted an audit report or other requested material necessary for the audit review and/or resolution process by the expiration of the three month period following the effective date of the initial sanction, the Department will consider terminating all funding to the organization for failure to comply with the audit requirements of the grant or contract. A sanction of this severity will only be imposed at the direction of the Secretary of the Department of Health and Social Services.

Staff of the Department who are responsible for audit review and resolution activities will prepare a report which spells out the circumstances leading up to consideration of termination of funding. The Administrators of the program division(s) providing funding to the organization and the Administrator of the Division of Management Services shall jointly review any staff recommendations for termination of funding. If the staff recommendation is supported by the Division Administrators, it will be forwarded to the Secretary's Office for approval, along with a proposed letter to the organization explaining the reasons for the termination and the effective date of the termination.

If the Secretary approves the recommendation for termination, the termination letter will be sent to the organization. (A copy of the letter will be sent to the Director of the Bureau of Fiscal Services.) For any organization that has had funding terminated by the Department for failure to comply with audit requirements, the Department will not provide any funding from any source until the audit requirements that resulted in the termination have been met.

10. This policy has been developed to help ensure that basic audit requirements are met. The same policy could be applied to instances in which other fiscal or program information required by the Department under various grants and contracts is not being provided timely.

#### **REFERENCES**

AUDIT 3.0 (Audits of Non-Profit Agencies -- Circular A-133)  
AUDIT 4.0 (Audit Resolution Policy: Sub-recipient Audits)

#### **CONTACT PERSON**

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